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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BUSINESS SOLUTIONS, LLC,

Plaintiff.

v.

BANIR GANATRA, *et al.*,

Defendants.

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Case No. 8:18-cv-01426-DOC KESx

~~PROPOSED~~ STIPULATED
PROTECTIVE ORDER

1 1. A. PURPOSES AND LIMITATIONS

2 Discovery in this action is likely to involve production of confidential,
3 proprietary, or private information for which special protection from public disclosure
4 and from use for any purpose other than prosecuting this litigation may be warranted.
5 Accordingly, the parties hereby stipulate to and petition the Court to enter the
6 following Stipulated Protective Order (“Order”). The parties acknowledge that this
7 Order does not confer blanket protections on all disclosures or responses to discovery
8 and that the protection it affords from public disclosure and use extends only to the
9 limited information or items that are entitled to confidential treatment under the
10 applicable legal principles. The parties further acknowledge, as set forth in Section
11 12.3, below, that this Order does not entitle them to file confidential information under
12 seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the
13 standards that will be applied when a party seeks permission from the Court to file
14 material under seal.

15 B. GOOD CAUSE STATEMENT

16 This action is likely to involve trade secrets, customer and pricing lists and
17 other valuable development, commercial, financial, technical and/or proprietary
18 information, including source code, for which special protection from public
19 disclosure and from use for any purpose other than prosecution of this action is
20 warranted. Such confidential and proprietary materials and information consist of,
21 among other things, confidential business or financial information, information
22 regarding confidential business practices, or other confidential development or
23 commercial information, including source code, as well as information implicating
24 privacy rights of third parties, information otherwise generally unavailable to the
25 public, or which may be privileged or otherwise protected from disclosure under state
26 or federal statutes, court rules, case decisions, or common law. Accordingly, to
27 expedite the flow of information, to facilitate the prompt resolution of disputes over
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1 confidentiality of discovery materials, to adequately protect information the parties
2 are entitled to keep confidential, to ensure that the parties are permitted reasonable
3 necessary uses of such material in preparation for and in the conduct of trial, to address
4 their handling at the end of the litigation, and serve the ends of justice, a protective
5 order for such information is justified in this matter. It is the intent of the parties that
6 information will not be designated as confidential for tactical reasons and that nothing
7 be so designated without a good faith belief that it has been maintained in a
8 confidential, non-public manner, and there is good cause why it should not be part of
9 the public record of this case.

10 2. DEFINITIONS

11 2.1 Action: this pending federal lawsuit.

12 2.2 Challenging Party: a Party or Non-Party that challenges the designation
13 of information or items under this Order.

14 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
15 how it is generated, stored or maintained) or tangible things that qualify for protection
16 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good
17 Cause Statement.

18 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
19 support staff).

20 2.5 Designating Party: a Party or Non-Party that designates information or
21 items that it produces in disclosures or in responses to discovery as
22 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL” or HIGHLY CONFIDENTIAL
23 - SOURCE CODE MATERIAL.”

24 2.6 Disclosure or Discovery Material: all items or information, regardless of
25 the medium or manner in which it is generated, stored, or maintained (including,
26 among other things, testimony, transcripts, and tangible things), that are produced or
27 generated in disclosures or responses to discovery in this matter.

1 2.7 Expert: a person with specialized knowledge or experience in a matter
2 pertinent to the litigation who has been retained by a Party or its counsel to serve as
3 an expert witness or as a consultant in this Action.

4 2.8 “HIGHLY CONFIDENTIAL” Information or Items: information
5 (regardless of how it is generated, stored or maintained) or tangible things that qualify
6 for protection under Federal Rule of Civil Procedure 26(c), and as specified above in
7 the Good Cause Statement, and which the Designating Party in good faith and
8 reasonably believes that disclosure of, other than as permitted pursuant to Paragraph
9 7.3 of this Order, is substantially likely to cause injury to the Designating Party.

10 2.9 House Counsel: attorneys who are employees of a party to this Action.
11 House Counsel does not include Outside Counsel of Record or any other outside
12 counsel.

13 2.10 Non-Party: any natural person, partnership, corporation, association, or
14 other legal entity not named as a Party to this action.

15 2.11 Other Action(s): the following actions may involve discovery of some or
16 all of the same Protected Material produced in this Action: (1) *BrandRep, LLC, et al.*
17 *v. Chad Ruskey, et al.*, pending in the Court of Chancery of the State of Delaware,
18 Case No.: 2018-0541-MTZ; and (ii) *BR Marketing, Inc., et al. v. Chad Ruskey, et al.*,
19 pending in the Orange County Superior Court, Case No. 30-2018-01031255-CU- FR-
20 CJC.

21 2.12 Outside Counsel of Record: attorneys who are not employees of a party
22 to this Action but are retained to represent or advise a party to this Action and have
23 appeared in this Action on behalf of that party or are affiliated with a law firm which
24 has appeared on behalf of that party, and includes support staff.

25 2.13 Party or Parties: any party to this Action, including all of its officers,
26 directors, employees, consultants, retained experts, and Outside Counsel of Record
27 (and their support staffs).

1 2.14 Producing Party: a Party or Non-Party that produces Disclosure or
2 Discovery Material in this Action.

3 2.15 Professional Vendors: persons or entities that provide litigation support
4 services (e.g., photocopying, videotaping, translating, preparing exhibits or
5 demonstrations, and organizing, storing, or retrieving data in any form or medium)
6 and their employees and subcontractors.

7 2.16 Protected Material: any Disclosure or Discovery Material that is
8 designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL” or “HIGHLY
9 CONFIDENTIAL - SOURCE CODE MATERIAL.”

10 2.17 Receiving Party: a Party that receives Disclosure or Discovery Material
11 from a Producing Party, excepting the Court or court personnel.

12 2.18 “HIGHLY CONFIDENTIAL - SOURCE CODE MATERIAL”
13 Information or Items: information (regardless of how it is generated, stored or
14 maintained) or tangible things that qualify for protection under Federal Rule of Civil
15 Procedure 26(c), and as specified above in the Good Cause Statement, and which the
16 Designating Party in good faith and reasonably believes contains “Source Code.”
17 Source Code means extremely sensitive and confidential material representing
18 computer code and associated comments and revision histories, formulas, engineering
19 specifications, or schematics that define or otherwise describe in detail the algorithms
20 or structure of software or hardware designs, disclosure of which, other than as
21 permitted pursuant to Paragraph 7.4 of this Order, would create a substantial risk of
22 serious harm that could not be avoided by less restrictive means.

23 3. SCOPE

24 The protections conferred by this Order cover not only Protected Material (as
25 defined above), but also (1) any information copied or extracted from Protected
26 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;

1 and (3) any testimony, conversations, or presentations by Parties or their Counsel that
2 might reveal Protected Material.

3 Any use of Protected Material at trial shall be governed by the orders of the
4 trial judge. This Order does not govern the use of Protected Material at trial.

5 4. DURATION

6 Even after final disposition of this litigation, the confidentiality obligations
7 imposed by this Order shall remain in effect until a Designating Party agrees
8 otherwise in writing or a court order otherwise directs. Final disposition shall be
9 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
10 or without prejudice; and (2) final judgment herein after the completion and
11 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
12 including the time limits for filing any motions or applications for extension of time
13 pursuant to applicable law.

14 5. DESIGNATING PROTECTED MATERIAL

15 5.1 Exercise of Restraint and Care in Designating Material for Protection.

16 Each Party or Non-Party that designates information or items for protection under this
17 Order must take care to limit any such designation to specific material that qualifies
18 under the appropriate standards. The Designating Party must designate for protection
19 only those parts of material, documents, items, or oral or written communications that
20 qualify so that other portions of the material, documents, items, or communications
21 for which protection is not warranted are not swept unjustifiably within the ambit of
22 this Order.

23 Mass, indiscriminate, or routinized designations are prohibited. Designations
24 that are shown to be clearly unjustified or that have been made for an improper
25 purpose (e.g., to unnecessarily encumber the case development process or to impose
26 unnecessary expenses and burdens on other parties) may expose the Designating Party
27 to sanctions.

1 If it comes to a Designating Party's attention that information or items that it
2 designated for protection do not qualify for protection, that Designating Party must
3 promptly notify all other Parties that it is withdrawing the inapplicable designation.

4 5.2 Manner and Timing of Designations. Except as otherwise provided in
5 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
6 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
7 under this Order must be clearly so designated before the material is disclosed or
8 produced.

9 Designation in conformity with this Order requires:

10 (a) for information in documentary form (e.g., paper or electronic
11 documents, but excluding transcripts of depositions or other pretrial or trial
12 proceedings), that the Producing Party affix at a minimum, the legend
13 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), "HIGHLY
14 CONFIDENTIAL" (hereinafter "HIGHLY CONFIDENTIAL legend") or "HIGHLY
15 CONFIDENTIAL - SOURCE CODE MATERIAL" (hereinafter "HIGHLY
16 CONFIDENTIAL - SOURCE CODE MATERIAL legend"), to each page that
17 contains protected material. If only a portion or portions of the material on a page
18 qualifies for protection, the Producing Party also must clearly identify the protected
19 portion(s) (e.g., by making appropriate markings in the margins).

20 A Party or Non-Party that makes original documents available for inspection
21 need not designate them for protection until after the inspecting Party has indicated
22 which documents it would like copied and produced. During the inspection and before
23 the designation, all of the material made available for inspection shall be deemed
24 "HIGHLY CONFIDENTIAL." After the inspecting Party has identified the
25 documents it wants copied and produced, the Producing Party must determine which
26 documents, or portions thereof, qualify for protection under this Order. Then, before
27 producing the specified documents, the Producing Party must affix the
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1 “CONFIDENTIAL legend,” “HIGHLY CONFIDENTIAL legend” or “HIGHLY
2 CONFIDENTIAL - SOURCE CODE MATERIAL legend” to each page that contains
3 Protected Material. If only a portion or portions of the material on a page qualifies for
4 protection, the Producing Party also must clearly identify the protected portion(s)
5 (e.g., by making appropriate markings in the margins).

6 (b) for testimony given in depositions that the Designating Party
7 identify the Disclosure or Discovery Material on the record, before the close of the
8 deposition all protected testimony.

9 (c) for information produced in some form other than documentary
10 and for any other tangible items, that the Producing Party affix in a prominent place
11 on the exterior of the container or containers in which the information is stored the
12 legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL” or “HIGHLY
13 CONFIDENTIAL - SOURCE CODE MATERIAL.” If only a portion or portions of
14 the information warrants protection, the Producing Party, to the extent practicable,
15 shall identify the protected portion(s).

16 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
17 failure to designate qualified information or items does not, standing alone, waive the
18 Designating Party’s right to secure protection under this Order for such material.
19 Upon timely correction of a designation, the Receiving Party must make reasonable
20 efforts to assure that the material is treated in accordance with the provisions of this
21 Order.

22 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

23 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
24 designation of confidentiality at any time that is consistent with the Court’s
25 Scheduling Order.

1 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
2 resolution process under Local Rule 37.1 et seq. or follow the procedures for informal,
3 telephonic discovery hearings on the Court's website.

4 6.3 The burden of persuasion in any such challenge proceeding shall be on
5 the Designating Party. Frivolous challenges, and those made for an improper purpose
6 (e.g., to harass or impose unnecessary expenses and burdens on the parties) may
7 expose the Challenging Party to sanctions. Unless the Designating Party has waived
8 or withdrawn the confidentiality designation, all parties shall continue to afford the
9 material in question the level of protection to which it is entitled under the Producing
10 Party's designation until the Court rules on the challenge.

11 7. ACCESS TO AND USE OF PROTECTED MATERIAL

12 7.1 Basic Principles. Subject to paragraph 7.2, a Receiving Party may use
13 Protected Material that is disclosed or produced by another Party or by a Non-Party
14 in connection with this Action only for prosecuting, defending, or attempting to settle
15 this Action. Such Protected Material may be disclosed only to the categories of
16 persons and under the conditions described in this Order, who shall be advised that
17 the information is being disclosed pursuant and subject to the terms of this Order.
18 Protected Material must be stored and maintained by a Receiving Party at a location
19 and in a secure manner that ensures that access is limited to the persons authorized
20 under this Order. When the Action has been terminated, a Receiving Party must
21 comply with the provisions of section 13 below (FINAL DISPOSITION).

22 These limitations on the access to and use of Protected Material shall not apply
23 to any Protected Material that is or becomes part of the public record as a result of the
24 Designating Party's conduct or with the Designating Party's prior written consent.

25 7.2 Use of Protected Material in Other Actions. This Order does not
26 preclude any party from seeking, through permitted discovery methods in the Other
27 Actions, any Protected Material produced in this Litigation, and using such
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1 Protected Material in those Other Actions after such Protected Material is produced
2 in the Other Action(s), provided that the Parties and their counsel enter into a
3 Protective Order in each of the Other Lawsuits in order to protect any Protected
4 Material produced in this Action. Until any Protected Material that is produced in
5 this Action is produced or identified in the Other Actions by the party that produced
6 it in this Action, the parties shall limit disclosure of such Protected Material to (1)
7 discussions with Counsel for the parties in this Action or the Other Actions, (2) this
8 Court or the courts in the Other Action(s) as needed to prosecute, defend, or
9 otherwise resolve discovery disputes in the Other Actions, and (3) as otherwise
10 permitted by this Order. This Order does not determine whether any Protected
11 Material produced in this Action is relevant or discoverable in the Other Actions.
12 This Court shall retain jurisdiction over any dispute regarding any disclosure or use
13 of Protected Material produced in this Action, without prejudice to the courts in the
14 Other Actions' jurisdiction, including concurrent jurisdiction, over any discovery
15 dispute, including production or use, of any such Protected Material in the Other
16 Actions.

17 7.3 Disclosure of "CONFIDENTIAL" Information or Items. Unless
18 otherwise ordered by the Court or permitted in writing by the Designating Party, a
19 Receiving Party may disclose any information or item designated
20 "CONFIDENTIAL" only to:

21 (a) the Parties, including their Counsel, to the extent deemed
22 reasonably necessary by Outside Counsel of Record for the purpose of assisting in the
23 prosecution or defense of this Litigation;

24 (b) Experts (as defined in this Order) of the Receiving Party to whom
25 disclosure is reasonably necessary for this Action and who have signed the
26 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

27 (c) the Court and its personnel;
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- 1 (d) court reporters and their staff;
- 2 (e) professional jury or trial consultants, mock jurors, and
- 3 Professional Vendors to whom disclosure is reasonably necessary for this Action and
- 4 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- 5 (f) the author or recipient of a document containing the information
- 6 or a custodian or other person who otherwise possessed or knew the information;
- 7 (g) during their depositions, witnesses, and attorneys for witnesses, in
- 8 the Action to whom disclosure is reasonably necessary provided: (i) they confirm their
- 9 understanding and agreement to abide by the terms of this Order by making such a
- 10 statement on the record; or (ii) they sign the “Acknowledgment and Agreement to Be
- 11 Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by
- 12 the Court. Pages of transcribed deposition testimony or exhibits to depositions that
- 13 reveal Protected Material may be separately bound by the court reporter and may not
- 14 be disclosed to anyone except as permitted under this Order;
- 15 (h) any mediator or settlement officer, and their supporting personnel,
- 16 mutually agreed upon by any of the parties engaged in settlement discussions; and
- 17 (i) any other person only upon (i) order of the Court entered upon
- 18 notice to the Parties; or (ii) written stipulation of, or statement on the record by, the
- 19 Designating Party, and provided that such a person sign the “Acknowledgment and
- 20 Agreement to Be Bound” (Exhibit A).

21 7.4 Disclosure of “HIGHLY CONFIDENTIAL” Information or Items.

22 Unless otherwise ordered by the Court or permitted in writing by the Designating

23 Party, a Receiving Party may disclose any information or item designated “HIGHLY

24 CONFIDENTIAL” only to:

- 25 (a) Counsel;
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1 (b) Experts (as defined in this Order) of the Receiving Party to whom
2 disclosure is reasonably necessary for this Action and who have signed the
3 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

4 (c) the Court and its personnel;

5 (d) court reporters and their staff;

6 (e) professional jury or trial consultants, mock jurors, and
7 Professional Vendors to whom disclosure is reasonably necessary for this Action and
8 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

9 (f) the author or recipient of a document containing the information
10 or a custodian or other person who otherwise possessed or knew the information;

11 (g) any mediator or settlement officer, and their supporting personnel,
12 mutually agreed upon by any of the parties engaged in settlement discussions; and

13 (h) any other person only upon (i) order of the Court entered upon
14 notice to the Parties; or (ii) written stipulation of, or statement on the record by, the
15 Designating Party, and provided that such a person sign the “Acknowledgment and
16 Agreement to Be Bound” (Exhibit A).

17 7.5 Disclosure of “HIGHLY CONFIDENTIAL - SOURCE CODE
18 MATERIAL” Information or Items. Unless otherwise ordered by the court or
19 permitted in writing by the Designating Party, a Receiving Party may disclose any
20 information or item designated “HIGHLY CONFIDENTIAL - SOURCE CODE
21 MATERIAL” only to:

22 (a) Outside Counsel of Record;

23 (b) Experts (as defined in this Order) of the Receiving Party to whom
24 disclosure is reasonably necessary for this Action and who have signed the
25 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

26 (c) the court and its personnel;

27 (d) court reporters and their staff;

1 (e) professional jury or trial consultants, mock jurors, and
2 Professional Vendors to whom disclosure is reasonably necessary for this Action and
3 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

4 (f) the author or recipient of a document containing the information
5 or a custodian or other person who otherwise possessed or knew the information;

6 (g) any mediator or settlement officer, and their supporting personnel,
7 mutually agreed upon by any of the parties engaged in settlement discussions; and

8 (h) any other person only upon (i) order of the court entered upon
9 notice to the Parties; or (ii) written stipulation of, or statement on the record by, the
10 Designating Party, and provided that such a person sign the “Acknowledgment and
11 Agreement to Be Bound” (Exhibit A).

12 7.6 To the extent that testimony is sought concerning Protected Material
13 during any deposition, any Party may exclude any person from the deposition during
14 such testimony if the Protected Material may not be disclosed to such person under
15 the terms of this Order.

16 7.7 Notwithstanding Paragraph 7.2(b), 7.3(b) and 7.4(b) above, Protected
17 Material may be provided to an Expert only to the extent necessary for such Expert
18 to prepare a written opinion, to prepare to testify or to assist counsel in this Action,
19 provided that such Expert (i) is not currently an employee of, or advising or
20 discussing employment with, or consultant to, any Party or any Competitor or
21 potential transaction counterparty of any Party, as far as the Expert can reasonably
22 determine; and (ii) is using said Protected Material solely in connection with this
23 Action. Under no circumstances shall an expert or consultant who is a Competitor
24 or an employee of a Competitor of a Party, or who is providing services to any of
25 the foregoing, be provided access to Protected Material absent further order of the
26 Court or consent of the Designating Party. A “Competitor” is a person or entity
27 endeavoring to engage in the same or similar lines of business, provide the same or
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1 similar services, sell the same or similar products, and/or operate in the same
2 markets, as well as any person or entity who are actually engaged in any of these
3 activities.

4 7.8 Unless otherwise ordered by the Court or agreed to in writing by the
5 Designating Party, a Party that seeks to disclose to an Expert any “HIGHLY
6 CONFIDENTIAL” information or item first must make a written request to the
7 Designating Party that (1) sets forth the full name of the Expert, and (2) attaches a
8 copy of the Expert’s current resume.

9 7.9 A Party that makes a request and provides the information specified in
10 the preceding paragraph may disclose the subject Protected Material to the identified
11 Expert unless, within 7 days of delivering the request, the Designating Party delivers
12 to the Party that seeks to make the disclosure, a written objection that the proposed
13 Expert is a Competitor or an employee of a Competitor of a Party, or is providing
14 services to a Competitor. Any such objection must set forth in detail the grounds on
15 which it is based.

16 7.10 A Party that receives a timely written objection must meet and confer
17 with the Designating Party pursuant to the meet and confer procedures applicable to
18 discovery disputes, as provided in Local Rule 37.1. If no agreement is reached, the
19 Parties shall comply with the filing procedures applicable to discovery disputes, as
20 provided in Local Rule 37.2, in bringing the issue to the attention of the Magistrate.

21 7.11 Counsel showing, providing or disclosing Protected Material to any
22 person required to sign the “Acknowledgment and Agreement to Be Bound”
23 (Exhibit A) pursuant to this Section shall be responsible for obtaining such signed
24 Exhibit A and retaining the original, executed copy thereof.

25 7.12 Access to “HIGHLY CONFIDENTIAL - SOURCE CODE
26 MATERIAL” Information or Items. To the extent production of source code
27 becomes necessary in this case, a Producing Party may designate source code as
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1 “HIGHLY CONFIDENTIAL - SOURCE CODE MATERIAL” if it comprises or
2 includes confidential, proprietary or trade secret source code.

3 (b) Protected Material designated as “HIGHLY CONFIDENTIAL -
4 SOURCE CODE MATERIAL” shall be subject to all of the protections afforded to
5 “HIGHLY CONFIDENTIAL - SOURCE CODE MATERIAL” information.

6 (c) Any source code produced in discovery shall be made available for
7 inspection, in a format allowing it to be reasonably reviewed and searched, during
8 normal business hours or at other mutually agreeable times, at an office of the
9 Producing Party’s counsel or another mutually agreed upon location. The source
10 code shall be made available for inspection on a secured computer in a secured room
11 without Internet access or network access to other computers (“the Standalone
12 Computer”), and the Receiving Party shall not copy, remove, or otherwise transfer
13 any portion of the source code onto any recordable media or recordable device. The
14 Producing Party may visually monitor the activities of the Receiving Party’s
15 representatives during any source code review, but only to ensure that there is no
16 unauthorized recording, copying, or transmission of the source code. No cell
17 phones, mobile devices, cameras, imaging, or recording devices are allowed in the
18 source code review room. The Receiving Party may take electronic notes on a
19 second secured computer provided by the Producing Party with no camera, Internet
20 access, or network access to other computers (“Note-Taking Computer”). No code
21 may be copied onto the Note-Taking Computer or otherwise into the Receiving
22 Party’s notes. No person other than the Producing Party may alter, dismantle,
23 disassemble, or modify the Standalone Computer or Note-Taking Computer in any
24 way, or attempt to circumvent any security feature of the Standalone Computer or
25 Note-Taking Computer. The Receiving Party may save the electronic notes in a
26 container on the note-taking computer that is encrypted by the Receiving Party. The
27 Producing Party shall also provide a maximum of two (2) encrypted USB drives
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1 onto which the Receiving Party may copy such container that contain such notes at
2 the end of a source code review session. The Producing Party may observe the
3 copying of such container but may not access or review the content of such
4 container. The Receiving Party shall be responsible for deleting the encrypted
5 container and any notes and/or any files containing information remaining on the
6 Note-Taking Computer that refer to, reference, or otherwise permit the review or
7 reconstruction in whole or part of, such notes, including without limitation any
8 temporary files or file fragments remaining on the Note-Taking Computer. The
9 Producing Party shall be prohibited from searching or mining for any notes and/or
10 files containing information remaining on the Note-Taking Computer that refer to,
11 reference, or otherwise permit the review or reconstruction in whole or part of, such
12 notes, including without limitation any temporary files or file fragments remaining
13 on the Note-Taking Computer, that inadvertently were not deleted by the Receiving
14 Party.

15 (d) The Receiving Party may request paper copies of limited portions of
16 source code that are reasonably necessary for the preparation of court filings,
17 pleadings, expert reports, or other papers, or for deposition or trial, but shall not
18 request paper copies for the purposes of reviewing the source code other than
19 electronically as set forth in paragraph (c) in the first instance. The Producing Party
20 shall provide all such source code in paper form including bates numbers and the
21 label “HIGHLY CONFIDENTIAL - SOURCE CODE MATERIAL.” The
22 Producing Party may challenge the amount of source code requested in hard copy
23 form pursuant to the dispute resolution procedure and timeframes set forth in
24 Section 6 whereby the Producing Party is the “Challenging Party” and the Receiving
25 Party is the “Designating Party” for purposes of dispute resolution. In no event shall
26 the number of printed pages of code exceed 100 pages total, regardless of the
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1 number of review sessions, on 8.5" x 11" paper with a font no smaller than Courier
2 12 pt.

3 (e) The Receiving Party shall maintain a record of any individual who
4 has inspected any portion of the source code in electronic or paper form. The
5 Receiving Party shall maintain all paper copies of any printed portions of the source
6 code in a secured, locked area. The Receiving Party shall not create any electronic
7 or other images of the paper copies and shall not convert any of the information
8 contained in the paper copies into any electronic format, except that the Receiving
9 Party may digitally image limited excerpts of the source code for inclusion in court
10 filings or an expert report. The Receiving Party may only make copies of portions
11 of the source code for use at deposition. Any copies used during a deposition shall
12 be retrieved by the Producing Party at the end of each day and must not be given to
13 or left with a court reporter or any other unauthorized individual.

14 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
15 OTHER LITIGATION

16 If a Party is served with a subpoena or a court order issued in other litigation
17 that compels disclosure of any information or items designated in this Action as
18 "CONFIDENTIAL," "HIGHLY CONFIDENTIAL" or "HIGHLY CONFIDENTIAL
19 - SOURCE CODE MATERIAL," that Party must:

20 (a) promptly notify in writing the Designating Party. Such
21 notification shall include a copy of the subpoena or court order;

22 (b) promptly notify in writing the party who caused the subpoena or
23 order to issue in the other litigation that some or all of the material covered by the
24 subpoena or order is subject to this Protective Order. Such notification shall include
25 a copy of this Order; and

26 (c) cooperate with respect to all reasonable procedures sought to be
27 pursued by the Designating Party whose Protected Material may be affected.

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1 If the Designating Party timely seeks a protective order, the Party served with
2 the subpoena or court order shall not produce any information designated in this action
3 as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL” or “HIGHLY
4 CONFIDENTIAL - SOURCE CODE MATERIAL” before a determination by the
5 court from which the subpoena or order issued, unless the Party has obtained the
6 Designating Party’s permission. The Designating Party shall bear the burden and
7 expense of seeking protection in that court of its confidential material and nothing in
8 these provisions should be construed as authorizing or encouraging a Receiving Party
9 in this Action to disobey a lawful directive from another court.

10 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
11 PRODUCED IN THIS LITIGATION

12 (a) The terms of this Order are applicable to information produced by
13 a Non-Party in this Action and designated as “CONFIDENTIAL,” “HIGHLY
14 CONFIDENTIAL” or “HIGHLY CONFIDENTIAL - SOURCE CODE
15 MATERIAL” Such information produced by Non-Parties in connection with this
16 litigation is protected by the remedies and relief provided by this Order, and any Party
17 issuing a subpoena to a Non-Party shall enclose a copy of this Order and notify the
18 Non-Party that the protections of this Order are available to such Non-Party. Nothing
19 in these provisions should be construed as prohibiting a Non-Party from seeking
20 additional protections.

21 (b) In the event that a Party is required, by a valid discovery request,
22 to produce a Non-Party’s confidential information in its possession, and the Party is
23 subject to an agreement with the Non-Party not to produce the Non-Party’s
24 confidential information, then the Party shall:

25 (1) promptly notify in writing the Requesting Party and the
26 Non-Party that some or all of the information requested is subject to a confidentiality
27 agreement with a Non-Party;
28

1 (2) promptly provide the Non-Party with a copy of the Order in
2 this Action, the relevant discovery request(s), and a reasonably specific description of
3 the information requested; and

4 (3) make the information requested available for inspection by
5 the Non-Party, if requested.

6 (c) If the Non-Party fails to seek a protective order from this Court
7 within 14 days of receiving the notice and accompanying information, the Receiving
8 Party may produce the Non-Party's confidential information responsive to the
9 discovery request. If the Non-Party timely seeks a protective order, the Receiving
10 Party shall not produce any information in its possession or control that is subject to
11 the confidentiality agreement with the Non-Party before a determination by the Court.
12 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
13 of seeking protection in this Court of its Protected Material.

14 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

15 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
16 Protected Material to any person or in any circumstance not authorized under this
17 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
18 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
19 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
20 persons to whom unauthorized disclosures were made of all the terms of this Order,
21 and (d) request such person or persons to execute the "Acknowledgment and
22 Agreement to Be Bound" that is attached hereto as Exhibit A.

23 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
24 PROTECTED MATERIAL

25 When a Producing Party gives notice to Receiving Parties that certain
26 inadvertently produced material is subject to a claim of privilege or other protection,
27 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
28

1 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
2 may be established in an e-discovery order that provides for production without prior
3 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
4 parties reach an agreement on the effect of disclosure of a communication or
5 information covered by the attorney-client privilege or work product protection, the
6 parties may incorporate their agreement in the stipulated protective order submitted
7 to the Court.

8 12. MISCELLANEOUS

9 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
10 person to seek its modification by the Court in the future. No modification shall have
11 the force or effect of a Court order unless the Court approves the modification.

12 12.2 Right to Assert Other Objections. By stipulating to the entry of this Order
13 no Party waives any right it otherwise would have to object to disclosing or producing
14 any information or item on any ground not addressed in this Order. Similarly, no Party
15 waives any right to object on any ground to use in evidence of any of the material
16 covered by this Order.

17 12.3 Filing Protected Material. A Party that seeks to file under seal any
18 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
19 only be filed under seal pursuant to a court order authorizing the sealing of the specific
20 Protected Material at issue. If a Party's request to file Protected Material under seal is
21 denied by the Court, then the Receiving Party may file the information in the public
22 record unless otherwise instructed by the Court.

23 12.4 Notwithstanding any provision of this Order, Mr. Ron Jamal Kort is
24 prohibited from accessing any Protected Material; provided, however, that any Party
25 may apply to the Court for good cause to permit Mr. Kort to access Protected Material.
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27
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1 13. FINAL DISPOSITION

2 After the final disposition of this Action, as defined in paragraph 4, within 30
3 days of a written request by the Designating Party, each Receiving Party must return
4 all Protected Material to the Producing Party or destroy such material. As used in this
5 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
6 summaries, and any other format reproducing or capturing any of the Protected
7 Material. Whether the Protected Material is returned or destroyed, the Receiving Party
8 must submit a written certification to the Producing Party (and, if not the same person
9 or entity, to the Designating Party) by the 30 day deadline that (1) identifies (by
10 category, where appropriate) all the Protected Material that was returned or destroyed
11 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
12 compilations, summaries or any other format reproducing or capturing any of the
13 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
14 archival copy of all pleadings, motion papers, trial, deposition, and hearing
15 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
16 reports, attorney work product, and consultant and expert work product, even if such
17 materials contain Protected Material. Any such archival copies that contain or
18 constitute Protected Material remain subject to this Protective Order as set forth in
19 Section 4 (DURATION). However, no Party will be required to comply with the
20 terms of Paragraph 13 until after orders, dismissals, judgments or decrees have been
21 entered in this Action and in the Other Actions finally disposing of the entirety of this
22 Action and the Other Actions as to that Party.

23 14. Any violation of this Order may be punished by any and all appropriate
24 measures including, without limitation, contempt proceedings and/or monetary
25 sanctions.

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2
3 DATED: May 1, 2019

4
5 /s/ Lisa Kobialka

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19 Attorneys for Plaintiff, BUSINESS SOLUTIONS, LLC

20 DATED: May 1, 2019

21 /s/ Bridget J. Russell

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1 DATED: May 1, 2019

2
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12 and BRANDREP HOLDINGS LLC

13 DATED: May 1, 2019

14 /s/ Michael Barrie

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21 Attorneys for Defendants, BRANDREP, LLC
22 and BRANDREP HOLDINGS LLC

23 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

24 DATED: 5/3/2019

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27 Honorable Karen E. Scott
28 United States District/Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
_____ [print or type full address], declare under penalty of
perjury that I have read in its entirety and understand the Stipulated Protective Order
that was issued by the United States District Court for the Central District of
California on _____ in the case of Business Solutions v. Ganatra et al.,
Case No. 8:18-cv-01426-DOC (KESx). I agree to comply with and to be bound by
all the terms of this Stipulated Protective Order and I understand and acknowledge
that failure to so comply could expose me to sanctions and punishment in the nature
of contempt. I solemnly promise that I will not disclose in any manner any
information or item that is subject to this Stipulated Protective Order to any person
or entity except in strict compliance with the provisions of this Order.
I further agree to submit to the jurisdiction of the United States District Court for the
Central District of California for the purpose of enforcing the terms of this
Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action. I hereby appoint _____ [print or type full name] of _____
[print or type full address and telephone number] as my California agent for service
of process in connection with this action or any proceedings related to enforcement
of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____